

Docket No. 1759.17208-FOR

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor application of: Layne et al.

Group Art Unit: 3743

Serial No: 09/828,470

Examiner: K. Odland

Filed: 6 April 2001

For: Platform Cannula for Guiding the Expansion of Expandable Bodies and Method of Use (as amended)



26308

PATENT TRADEMARK OFFICE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT BEFORE MAILING DATE  
OF EITHER A FINAL ACTION OR NOTICE OF ALLOWANCE (37 CFR 1.97(c))**

**NOTE:** "An information disclosure statement shall be considered by the Office if filed ... before the mailing date of either (1) a final action under S 1.113 or (2) a notice of allowance under S 1.311, whichever occurs first, provided the statement is accompanied by either a certification as specified in paragraph (e) of this section or the fee set forth in S 1.17(p)." 37 CFR 1.97(c).

**NOTE:** "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**NOTE:** "If information submitted during the period set forth in 37 CFR 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, [i]f the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 CFR 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**WARNING:** "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

**TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION  
DISCLOSURE STATEMENT**

- The information disclosure statement transmitted herewith is being filed AFTER THREE MONTHS OF THE FILING DATE OF THIS NATIONAL APPLICATION OR THE DATE OF ENTRY OF THE NATIONAL STAGE AS SET FORTH IN S 1.491 IN AN INTERNATIONAL APPLICATION OR AFTER THE MAILING DATE OF THE FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURRED LAST BUT BEFORE THE MAILING DATE OF EITHER:

- (1) a final action under § 1.113 or
- (2) a notice of allowance under § 1.311, whichever occurs first.

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**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, with sufficient postage, in an envelope addressed as follows: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on 25 May 2004.

05/28/2004 CNGUYEN 00000016 09828470

01 FC:1806

180.00 OP

Signature of Person Signing

Linda S. Wenzel

Type or Print Name of Person Signing

**CERTIFICATION OR FEE**

2. Accompanying this transmittal is  
(check either A or B below)  
A. ☐ a certification as specified in 37 CFR 1.97(e)  
OR  
B. ☒ the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c). (\$180.00).

**FEE PAYMENT**

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c) (\$180.00).

Fee due \$ 180.00

**METHOD OF PAYMENT OF FEE**

4. ☒ Attached is check in the amount of \$ 180.00  
☐ Charge Account No. \_\_\_\_ in the amount of \$ \_\_\_\_  
A duplicate of this request is attached.

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* prior art reference against the claims of the present application.


If any additional fees are due, please charge Account No. 06-2360.

Reg. No. 50,295

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Customer No. 26308

Patricia A. Limbach  
Signature of Attorney  
Patricia A. Limbach  
Type or Print Name of Attorney of Record  
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**Post Office Box 26618**  
**Milwaukee, Wisconsin 53226-0618**  
Mailing Address of Sender

<b>LIST OF PRIOR ART CITED BY APPLICANT</b> <i>(Use several sheets if necessary)</i> 	ATTY. DOCKET NO. 1759.17208-FOR	SERIAL NO. 09/828,470
	APPLICANT Layne et al.	
	FILING DATE April 6, 2001	GROUP 3743

CUSTOMER NO. 26308

### U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (if Appropriate)
	4,494,535	22 Jan 85	Haig			
	4,969,888	13 Nov 90	Scholten et al.			
	5,100,390	31 Mar 92	Lubeck et al.			
	5,108,404	28 Apr 92	Scholten et al.			
	5,116,305	26 May 92	Milder et al.			
	5,176,683	05 Jan 93	Kimsey et al.			
	5,359,995	01 Nov 94	Sewell, Jr.			
	5,456,267	10 Oct 95	Stark			
	5,467,786	21 Nov 95	Allen et al.			
	5,601,590	11 Feb 97	Bonutti			
	5,817,074	06 Oct 98	Racz			

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### FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No
WO 99/02214	21 Jan 99	PCT			
WO 99/37212	29 Jul 99	PCT			
WO 01/76492	18 Oct 01	PCT			
WO 01/76514	18 Oct 01	PCT			

### OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through and not considered. Include copy of this of with next communication to applicant.

05/25/04

<p>LIST OF PRIOR ART CITED BY APPLICANT</p> <p><i>(Use several sheets if necessary)</i></p> <p><b>01P</b></p> <p><b>MAY 27 2004</b></p> <p>CUSTOMER NO. 26308</p>	ATTY. DOCKET NO. 1759.17208-FOR	SERIAL NO. 09/828,470
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### U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,827,289	27 Oct 98	Reiley et al.			
	5,865,728	02 Feb 99	Moll et al.			
	5,928,162	27 Jul 99	Giurtino et al.			
	5,961,499	05 Oct 99	Bonutti et al.			
	5,972,015	26 Oct 99	Scribner et al.			
	5,976,105	02 Nov 99	Marcove et al.			
	6,036,682	14 Mar 00	Lange et al.			
	6,036,711	14 Mar 00	Mozdzierz et al.			
	6,048,346	11 Apr 00	Reiley et al.			
	6,066,154	23 May 00	Reiley et al.			

### FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

### OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER	DATE CONSIDERED
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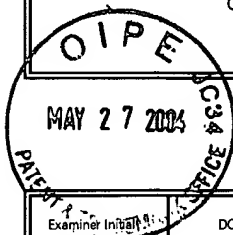
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Examiner Initials	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (if Appropriate)
	6,241,734	05 Jun 01	Scribner et al.			
	6,468,279	22 Oct 02	Reo			
	6,607,544	19 Aug 02	Boucher et al.			

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